

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.**

In the Matter of:	)	CC Docket No. 96-45
	)	
PETITION FOR RECONSIDERATION	)	CC Docket No. 02-6
of DA No. 15-875	)	
	)	
By	)	<b>PETITION FOR RECONSIDERATION</b>
	)	
Syracuse City School District	)	
Syracuse NY	)	

TO: Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Washington, DC 20554

Syracuse City School District (hereinafter "SCSD") respectfully requests that the Federal Communications Commission (hereinafter "FCC" or "Commission") reconsider its denial of an Appeal referred to the FCC by the Universal Service Administrative Company (hereinafter "USAC ") Administrator relative to an Invoice Deadline Extension Request. The Appeal was dismissed in DA 15-875 for failing to provide sufficient supporting reasons.

Billed Entity Number:	124483
FY2011 FCC Form 471 Application Number:	776972
Funding Request Number Appealed:	2228708
Date of FCC Order (No DA 15-875):	August 5, 2015

**Contact Information:**

Michele Scaduto  
Educational Funding Group, Inc.  
CRN 16043587  
Consultant to Syracuse City School District  
26650 Renaissance Parkway, Suite 2  
Cleveland, OH 44128  
541-683-5246 (Direct - Pacific Time Zone)  
216-831-2626 (Main Office)  
216-831-2822 (Fax)

**LEGAL STANDARD:**

A Petition for Reconsideration may be filed when the petition relies on “facts which relate to events which have occurred or circumstances which have changed since the last opportunity to present such matters.”<sup>1</sup>

**STATEMENT IN SUPPORT:**

The basis for this Petition is rooted in a change in circumstances that occurred since the initial Request for Review and/or Waiver was filed. More specifically, the decision in Order No. 15-875 was based on a USAC Administrator’s Referral of Appeal to the FCC which forwarded SCSD’s simple request for invoice deadline extension document to the FCC stating *“Because the issue raised on appeal relates to denial of funding for which USAC has already issued its decision, the appellant should have appealed to the Federal Communications Commission (FCC) rather than to USAC pursuant to 47 C.F.R. § 54.719(b).”* A copy of the Administrator’s Referral Letter is attached as Exhibit A. The referral was not requested or sanctioned by the applicant, who, on December 16, 2014, more than one month earlier, had filed with the FCC its own Request for Review and/or Waiver of a denial of an invoice deadline extension request for this FRN filed on July 31, 2014. A copy of that Request and the filing confirmation are attached as Exhibit B.

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<sup>1</sup> 47 CFR §1.106(b)(2)(i)  
Syracuse City School District Petition For Reconsiderations

Unlike the minimalistic document forwarded by USAC that was never intended to be an appeal, the Request for Review and/or Waiver submitted by SCSD on December 16, 2014 consisted of six (6) pages and contained numerous facts and substantial reasons explaining the delay(s) in submitting an invoice before the deadline. Further, that Request also contained an appeal for FY2010 FRN 2050678 since the issues were identical.

The change of circumstances applicable to allowing the ruling made in Order DA 15-875 to be reconsidered, is that SCSD had no way to know that the Commission would make a decision on the USAC-referred appeal without combining it with SCSD's own Request for Review and/or Waiver filed on December 16, 2014. Since action was taken on only the latter submission, SCSD has no way to ascertain whether or not the Commission considers its ruling in DA 15-875 to be dispositive of the entire invoice deadline extension issue for FRN 2228708, or whether it only pertains to the invoice deadline extension request filed with USAC on December 18, 2014.

Further, the December 16, 2014 Request for Review and/or Waiver filed by SCSD addressed an Invoice Deadline Extension Request for FRN 2050678 filed on July 31, 2014, a date that preceded the issuance of the E-Rate Modernization Order. On the other hand, the invoice deadline extension request referred to the FCC by USAC was based on a deadline extension request filed on December 18, 2014, and was therefore subject to the changes implemented by the Modernization Order. Since two different rule standards must be applied, SCSD requests the Commission reconsider its denial and allow SCSD's Request reviewed on its own merits, rather than on a document that was never intended to be an appeal.

SCSD believes the underlying facts, the significant financial hardship SCSD will continue to bear if not permitted an invoice extension for FRN 2050678, and the extensive good faith efforts SCSD has made in trying to get IBM to provide the necessary information constitute special

circumstances sufficient for the Commission to grant SCSD a waiver of the invoice deadline for FRN 2050678. For these reasons, and those stated above, SCSD respectfully requests that the Commission reconsider its denial of an invoice deadline extension for FRN 2050678 and review the Request for Review and/or Waiver filed by SCSD in December 16, 2014 on this same issue .

## **CONCLUSION**

Throughout its application process, SCSD demonstrated compliance with E-rate program rules and regulations. It followed all core E-rate program requirements and intended no fraud, abuse or waste of E-rate funds. To deny SCSD an invoice extension for FRN 2228708 is against the public interest and will create very significant financial hardship for the school district.

Therefore, for the reasons and circumstances presented herein, Syracuse City School District, by and through its duly authorized E-rate consultant, Educational Funding Group, Inc., respectfully requests that the Commission reconsider its denial of an invoice extension and:

1. Grant SCSD's Petition for Reconsideration so as to allow for review on the merits the Request Review and Waiver filed on December 16, 2014;
2. Issue an Order granting SCSD the invoice extension(s);
3. Waive any procedural rules necessary to effectuate the Commission's resultant Orders.

Respectfully submitted,

/s/ Michele Scaduto  
Michele Scaduto

# EXHIBIT A



**Universal Service Administrative Company**  
Schools & Libraries Division

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**Administrator's Referral of Appeal to the FCC**

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VIA ELECTRONIC FILING

January 20, 2015

Ms. Marlene H. Dortch  
Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

RE: In the Matter of Request for Review of the Universal Service Administrator, Schools and  
Libraries Universal Service Support Mechanism  
CC Docket No. 02-6;

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Administrator's Transmittal of Appeal to the Federal Communications Commission for  
Consideration

In re: Syracuse City School District, Syracuse, NY  
Billed Entity Number: 124483  
Appellant: Michele Scaduto, Educational Funding Group  
Fund Year: 2010 FCC Form 471: 738688  
Fund Year: 2010 FCC Form 486: 778199  
Decision Letter Date: November 21, 2014  
Appeal Postmark Date: December 18, 2014

Dear Ms. Dortch:

The Universal Service Administrative Company (USAC) has received an appeal submitted by the appellant indicated above. Because the issue raised on appeal relates to denial of funding for which USAC has already issued its decision, the appellant should have appealed to the Federal Communications Commission (FCC) rather than to USAC pursuant to 47 C.F.R. § 54.719(b). FCC staff has requested that when USAC receives an appeal under these circumstances, USAC should transmit the appeal directly to the FCC for consideration rather than returning the appeal to the appellant. USAC has determined the appeal was filed within the 60 day appeal window set forth in 47 C.F.R. § 54.720(a). USAC is hereby transmitting to the FCC a copy of the appeal filed by the appellant, which is attached to this letter.

Sincerely,

/s/ Universal Service Administrative Company

Enclosure: Letter of Appeal

CC: Michele Scaduto, Educational Funding Group  
Mary Ellen Killenbec, Syracuse City School District

# EXHIBIT B



BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.

In the Matter of:	)	
	)	
Request for Waivers	)	
	)	CC Docket No. 02-6
by	)	
	)	
Syracuse City School District	)	
Syracuse NY	)	

TO: Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Washington, DC 20554

Syracuse City School District ("SCSD") respectfully requests that the Federal Communications Commission ("FCC" or "Commission") grant it two Waivers relative to the Universal Service Administrative Company ("USAC") denial of two Invoice Extension Requests. The Requests for Waiver are made pursuant to 54.719 through 54.723 of the Commission's rules.<sup>1</sup>

Billed Entity Number: 124483

(1) FY2010 FCC Form 471 Application Number:	738688
Funding Request Number Appealed:	2050678
Date of Administrator's Decision of Appeal Letter:	November 21, 2014
Service Provider:	IBM Global Services
SPIN:	143005607

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<sup>1</sup> 47 C.F.R. §§ 54.719–54.723  
Syracuse City School District FY2010 & FY2011 Request for Waivers re invoice extension denials

(2) FY2011 FCC Form 471 Application Number: 776972  
Funding Request Number Appealed: 2228708  
Date of Administrator's Decision on Extension Letter: October 28, 2014  
Service Provider: IBM Global Services  
SPIN: 143005607

**Contact Information:** Michele Scaduto  
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216-831-2822 (Fax)  
[michele.scaduto@naa.com](mailto:michele.scaduto@naa.com)

## **USAC'S REASONS FOR INVOICE EXTENSION DENIALS**

### **FY2010 FRN 2050678**

On July 31, 2014 Syracuse City School District ("SCSD"), by and through its duly authorized E-rate consultant, Educational Funding Group, Inc., ("EFG") (CRN 16043587) submitted a an Invoice Extension Request for FY 2010 FRN 2050678. The request was denied by USAC in the Administrator's Decision on Invoice Extension dated September 5, 2014 stating: "Current deadline guidelines and procedures do not allow approval for the reason submitted." An appeal was filed with USAC, which was denied on November 21, 2014, stating that SCSD's appeal had not presented conditions that met the criteria for obtaining an extension.

### **FY2011 FRN 2228708**

On September 18, 2014 SCSD submitted an Invoice Extension Request for FY2011 FRN 2228708. The request was denied by USAC in the Administrator's Decision on Invoice Extension dated October 28, 2014 stating: "Current deadline guidelines and procedures do not allow approval for the reason submitted." No appeal was filed with USAC; instead SCSD is requesting a Waiver directly from the FCC.

### **STATEMENT IN SUPPORT OF REQUEST FOR WAIVER FOR BOTH FRNS**

Both FRN 2050678 and FRN 2228708 were funded for Basic Maintenance of Internal Connections, which services were performed by IBM Global Services during the 7/1/2010-6/30/2011 and 7/1/2011-6/30/2012 funding years. For both years, SCSD paid IBM based on the invoices it received; however, these invoices lacked sufficient detail to ensure that only costs for eligible items at eligible locations would be included in SCSD's BEARs. A few months after the 2010-2011 funding year ended, EFG reached out to IBM requesting the necessary detail for the basic maintenance services that had been performed. Only at that time did IBM inform EFG that the project manager for the SCSD project had unexpectedly passed away earlier in 2011 and that no one at IBM was able to locate the records necessary to reconstruct the work that had actually been performed and the locations where it was done.

After many months IBM finally provided copies of the invoices and when they were all finally received, an analysis disclosed that they included work performed at locations that lay outside the scope of FRN 2050678. The invoices were also missing considerable amounts of essential detail and also contained mis-information. Due to the magnitude of the project and the

amount of money involved, the need for the missing information and reconciliation of the incorrect information is essential to the preparation of an accurate BEAR for submission to USAC.

The scenario for FRN 2228708 was pretty much the same as that for FRN 2050678. The invoices from which SCSD paid were again sufficient for its purposes but were insufficient in detail and accuracy to prepare an accurate BEAR.

Despite SCSD and EFG diligently continuing its pursuits to obtain the information and documentation from IBM, nothing additional has been forthcoming. The process has been further hampered by the departure of subsequent IBM project managers and other IBM personnel. This has resulted in no one remaining at IBM having first-hand knowledge or ready access to the paperwork. There has been no apparent effort by IBM to locate or reconstruct the records, which they are, by E-rate rules, obligated to keep and there is little incentive for them to do so since they were already paid in full. Additionally, over the past few years, SCSD also had major turnover of school personnel. Thus, those currently at the district were not involved with E-rate during FY2010 and 2011. This means that no one at SCSD has first hand knowledge of the work that was performed. IBM's failure to provide the requisite documentation has left SCSD in an untenable situation *and* out of pocket \$585,529.67 for FRN 2050678 and \$727,723.92 for FRN 2228708, which, needless to say, has created significant financial hardship for the district.

Since one of the reasons listed on the USAC website for which an invoice extension may be requested are situations where documentation requirements necessitate third-party contact or certification, SCSD fails to comprehend why the invoice extension requests were denied "because current guidelines and procedures do not allow approval for the reasons submitted" when documentation requirements necessitating third-party contact or certification is *exactly* what SCSD needed to prepare an accurate BEAR. Since the district paid IBM based on the invoices it received,

which were sufficient for internal purposes, but insufficient in detail to use to prepare a BEAR and remain in compliance with E-rate program rules, USAC's denial of the invoice extension requests seems a very harsh penalty for SCSD who acted in good faith and sought to do everything right in trying to meet USAC and FCC requirements and is now out of pocket more than \$1.3 million dollars.

In the situation described above it is evident that SCSD is, and always has been, completely dependent on IBM to provide them with the detailed documentation necessary to assure program compliance, yet neither USAC nor the FCC provides any guidance or recourse for an applicant who paid in good faith but cannot get the vendor to supply them with the detailed paperwork necessary to obtain reimbursement. Denying an invoice extension under these circumstances is not only harsh, but is financially detrimental to the district that made its best efforts to comply with all program rules in a timely manner.

Since the filing of the Invoice Extension Request on July 31, 2014 for FRN 2050678 preceded the issuance of the E-Rate Modernization Order, the extension request submitted on July 31, 2014 should be determined by the standards and procedures in effect both for the 2010 funding year and at the time it was filed, not any changes that took place in subsequent months. Although the Invoice Extension Request for FRN 2228708 wasn't filed until September 18, 2014, it too should be determined by the standards and procedures in effect for its 2011 funding year. To have new rules and procedures apply retroactively, without any advance notification is inconsistent with the Commission's prior actions which have recognized that an application should be judged by the rules and procedures in effect at that time.<sup>2</sup>

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<sup>2</sup> See *Ysleta Independent School District*, DA 12-1797

SCSD believes the underlying facts, the significant financial hardship SCSD will continue to endure if not permitted invoice extensions and the extensive good faith efforts SCSD has made in trying to get IBM to provide the necessary information constitute special circumstances sufficient for the Commission to grant SCSD waivers of the invoicing deadlines for FRN 2050678 and FRN 2228708.

## **CONCLUSION**

Throughout its application process, SCSD demonstrated compliance with E-rate program rules and regulations. It followed all core E-rate program requirements and intended no fraud, abuse or waste of E-rate funds. To deny SCSD invoice extensions for FRNs 2050678 and 2228708 is against the public interest and will create very significant financial hardship for the school district.

Therefore, for the reasons contained herein, Syracuse City School District, by and through its duly authorized E-rate consultant, Educational Funding Group, Inc., respectfully requests that the Commission:

1. Grant it's Request for Waivers of the invoice extension deadlines for FRNs 2050678 and 2228708;
2. Issue an Order granting the invoice extensions;
3. Issue guidance as to how to get IBM to provide the documentation necessary for SCSD to prepare its BEAR; and
4. Waive any procedural rules necessary to effectuate the Commission's resultant Orders.

Respectfully submitted,

/s/Michele Scaduto  
Michele Scaduto

## Your submission has been accepted

**ECFS Filing Receipt -  
Confirmation number:  
20141216040618****Proceeding**

Name	Subject
02-6	In the Matter of Schools and Libraries Universal Service Support Mechanism

**Contact Info**

**Name of Filer:** Syracuse City School District  
**Email Address:** michele.scaduto@naa.com  
**Attorney/Author Name:** Michele Scaduto

**Address**

**Address For:** Author  
**Address Line 1:** 26650 Renaissance Parkway  
**City:** Cleveland  
**State:** OHIO  
**Zip:** 44128

**Details**

**Type of Filing:** WAIVER

**Document(s)**

File Name	Custom Description	Size
Syracuse CSD FY2010 & FY2011 invoice extension denials.pdf	SCSD Request for Waivers	211 KB
Syracuse CSD LOA FY2009 - 2013.pdf	LOA	41 KB

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